

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

John Krahn and Cyndi Krahn
S66 W13517 Saroyan Road
Muskego, WI 53150,

Court File No. 2:11-cv-00187
Personal Injury - Other

Plaintiffs,
and

AFFIDAVIT OF STEVE ROHDE

LEAGUE OF WISCONSIN
MUNICIPALITIES MUTUAL INSURANCE,
A Wisconsin insurance corporation,
c/o Dennis Tweedale, Registered Agent
402 Gammon Place, Suite 225
Madison, WI 53719,

Involuntary Plaintiff,

v.

SOO LINE RAILROAD COMPANY,
A foreign corporation
c/o CT Corporation System, Registered Agent
8025 Excelsior Drive
Madison, WI 53717

ABC INSURANCE COMPANY,
the fictitious name for an unknown
insurance company

Steve Rohde
433 West St. Paul Avenue
Milwaukee, WI 53203,

Defendants.

STATE OF WISCONSIN)
) ss.
MILWAUKEE COUNTY)

Steve Rohde, under oath, states as follows:

1. I have been employed with Soo Line Railroad Company d/b/a Canadian Pacific Railway in the Canadian Pacific Police Service department since 1986. My current title is a Supervisory Investigator. In May 2009, my title was Investigator.

2. In 2009 my job duties as a Canadian Pacific Police Service Investigator included investigating crimes on railroad property and protecting Canadian pacific employees, property and assets. Pursuant to Wis. Stat. § 192.47, I was authorized to arrest individuals. In an emergency situation, I, like any other railroad employee, have the authority to stop trains. Even in emergency situations, I do not have authority to slow trains. In non-emergency situations, I have no authority to stop or slow trains.

3. In 2009, if I received a letter from a city, town or village stating that the community will have increased pedestrian and motor vehicle traffic due to a event or holiday, I sent that notification to the appropriate railroad personnel, the railroad's dispatch center in Minnesota. The dispatch center was the appropriate department for further handling.

4. Even if a municipality were to request that the railroad slow or stop trains during an event, I do not have authority to issue slow or stop orders to reduce train speed or stop train traffic. It is also beyond my job duties to know which engineer and conductor will be assigned to what train on any given day. The railroad's dispatch center is the department with authority to issue slow and stop orders and the knowledge of a

locomotive's train-crew makeup.

5. I received a letter dated May 6, 2009 from Sergeant Ryan Unger of the Elm Grove Police Department. A true and correct copy of May 6, 2009 letter is attached as Exhibit A to this Affidavit. I also received the same letter dated May 15, 2009, which was attached as Exhibit A to John and Cyndi Krahn's complaint. At no point did the letter or any other person request that the railroad slow or stop trains for the holiday festivities.

6. After I received the May 6, 2009, Elm Grove Police Department's letter, I e-mailed the information to the following railroad employees: Mark Fiereck, Mike McNamara, Ray Holman and Jim Tubbs. Mr. Fiereck and Mr. McNamara were with the railroad's dispatch center in Minneapolis. Mr. Holman and Mr. Tubbs were with Canadian Pacific Police Service and are located in Illinois. A true and correct copy of the e-mail that I sent is attached as Exhibit 1 to the Affidavit of Robert D. Crivello.

7. After I sent the e-mail with the information contained in the Elm Grove Police Department's letter dated May 6, 2009, I had no authority or involvement on the issuance of the Tabular General Bulletin Order ("TGBO") for the areas surrounding Elm Grove.

8. The Elm Grove letter did not present, or claim to present, an emergency situation. As a result, I had no authority to stop train traffic. An emergency situation was not presented in Elm Grove until Monica Partenfelder stopped in front of an oncoming locomotive. I was not present at the Juneau Boulevard railroad crossing at the time the motorist created that emergency situation.

s/ Steve Rohde
Steve Rohde

Subscribed and sworn to before me
This 1st day of April, 2011

s/ Dawn Marie Riegel
Notary Public, State of Wisconsin
My commission: Expires 7-14-13